

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SURGICAL INSTRUMENT SERVICE
COMPANY, INC., et al.,

Plaintiffs,

v.

INTUITIVE SURGICAL, INC.,

Defendant.

Case No. 21-cv-03496-AMO

**ORDER RE: CURATIVE
INSTRUCTION**

Today at trial, during Plaintiff's playback of Glenn Vavoso's video deposition, inadvertently and in contravention of the Court's in limine rulings, testimony regarding "FDA approval" was presented to the jury.

Defendant requested that a three-part curative instruction be provided to the jury. The three parts requested are that: 1) Rebotix applied in 2016 for FDA clearance for its modified EndoWrists and was rejected, and that Rebotix lacked that clearance when Plaintiff worked with it; 2) that Defendant obtained FDA clearance for the daVinci and the EndoWrists with a limited number of uses; and 3) as a matter of law, FDA clearance does not determine that a product is safe.

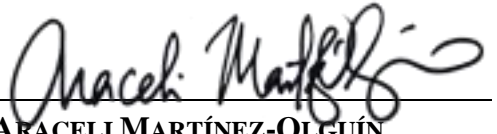
Plaintiff alternately proposed instructing the jury that FDA clearance is not part of this case.

The Court finds that Defendant's requested curative instruction presents the most effective remedy that would allow the case to proceed and ensure compliance with the Court's in limine orders. The Court therefore **ORDERS** Defendant to file a draft curative jury instruction in accordance with its proposal made on the record. The draft instruction shall be submitted no later than 4:00 p.m. on Friday, January 10, 2025. Plaintiff's response to the draft instruction, if any,

may not exceed one page and shall be submitted no later than 9:00 a.m. on Sunday, January 12, 2025.

IT IS SO ORDERED.

Dated: January 9, 2025


ARACELI MARTÍNEZ-OLGUÍN
United States District Judge

United States District Court
Northern District of California